

August 2, 2024

VIA ECF

David J. Smith
Clerk of Court
United States Court of Appeals for the Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

Re: *Dershowitz v. Cable News Network, Inc.*, Case No. 23-11270

Dear Mr. Smith:

We represent Defendant-Appellee Cable News Network, Inc. (“CNN”). We write pursuant to Federal Rule of Appellate Procedure 28(j) to advise the Court of a relevant supplemental authority.

This week, the Eleventh Circuit decided ***Moore v. Cecil*, No. 22-13406, 2024 WL 3590655 (11th Cir. July 31, 2024)**. In that case, a political figure alleged that the defendants defamed him through publications accusing him of improper sexual conduct with young girls. The district court granted the defendants’ motion to dismiss, and the Eleventh Circuit affirmed. *Id.* at *1.

As relevant here, the court held: “Importantly, ‘[i]ll-will, improper motive or personal animosity plays no role in determining whether a defendant acted with actual malice.’” *Id.* at *9 (alteration in original) (quoting *Dunn v. Air Line Pilots Ass’n*, 193 F.3d 1185, 1198 n.17 (11th Cir. 1999)). “Additionally, actual malice cannot be found where ‘the publisher’s allegations are supported by a multitude of previous reports upon which the publisher reasonably relied.’” *Id.* (quoting *Rosanova v. Playboy Enters., Inc.*, 580 F.2d 859, 862 (5th Cir. 1978)). “Indeed, it is undisputed that the allegations that Moore had preyed on young teenage girls were widely published in a multitude of sources at the time of the digital ad, which tends to preclude a finding of actual malice.” *Id.* at *10.

Likewise, as CNN argued in its brief, countless other news organizations published similar reports interpreting Dershowitz’s Response the same way that CNN’s commentators did. CNN’s Br. at 9-11, 37. These reports were published before any of CNN’s statements, and a number of CNN’s commentators were aware that their interpretation was widely shared. *Id.* at 37 & n.14. This multitude of sources supporting CNN’s interpretation precludes actual malice.

Respectfully submitted,

/s/ Katherine M. Bolger

Katherine M. Bolger

cc: All counsel of record (via ECF)